

**REMARKS**

The Examiner is thanked for the careful examination of the application, and for the suggestions for amending the application. However, in view of the foregoing amendments and the remarks that follow, the Examiner is respectfully requested to reconsider and withdraw the outstanding rejections.

***Claim Rejections - 35 U.S.C. §112:***

In response to the rejection of claims 3-8 under 35 U.S.C. §112, second paragraph, claim 8 has been canceled, and claims 3-7 have been amended to address the issues raised by the Examiner. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection.

In the event that there are any questions concerning these issues, the Examiner is respectfully encouraged to telephone the undersigned attorney so that prosecution of the application may be expedited.

***Art Rejections:***

Claims 1, 16, 17, 19, 20, and 22-26 have been rejected under 35 U.S.C. §102(b) as being allegedly anticipated by U.S. Patent No. 5,330,456, hereinafter *Robinson*.

Each of the independent claims 1, 16, 19, and 22 involves an absorbent article or a method of using an absorbent article, wherein the absorbent article includes a liquid-pervious surface layer, wherein the liquid-pervious surface layer consists of a hydrophilic absorbent material. A purpose of using a hydrophilic absorbent material is that the hydrophilic absorbent material is able to retain moisture, thus avoiding or minimizing desiccation of the mucus membranes, see page 4, lines 1-10, of the present application.

In contrast to the present invention, *Robinson* discloses a disposable absorbent panel assembly. The Examiner alleges that the hydrophobic top sheet 102 of *Robinson* corresponds to the claimed liquid-pervious surface layer. However, there is no teaching or suggestion that the hydrophobic top sheet 102 consists of a hydrophilic absorbent material, as is set forth in the independent claims of the present application. Specifically, *Robinson* indicates that the hydrophobic top sheet 102 may be treated with a surfactant in a central portion thereof. However, there is no teaching or suggestion that the hydrophobic top sheet 102 of *Robinson* is absorbent. The fact that the surface material 102 in *Robinson* is treated with a surfactant does not mean that it is also made absorbent, and has the ability to be maintained in a moist condition. Accordingly, *Robinson* does not teach or suggest an important feature of the present invention which is set forth in each of the independent claims. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection based on *Robinson*.

Claims 1, 3-8, 10, 13-17, 19-20, and 22-26 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,631,062, hereinafter *Lassen*, and further in view U.S. Patent No. 3,838,692, hereinafter *Levesque*. In the paragraph bridging pages 6 and 7, the Examiner concedes that *Lassen* does not teach a liquid-pervious surface layer within the wetting region that consists of hydrophilic absorbent material, and that all of the remaining parts of the liquid-pervious surface layer consist of a hydrophobic material, and wherein an extent of the wetting region is smaller than an extent of the absorbent body. To overcome this deficiency, the Examiner relies upon *Levesque*, which is alleged to teach a liquid-pervious surface layer where a wetting region consists of hydrophilic material and all

remaining parts of the liquid-pervious surface layer consists of a hydrophobic material as set forth in column 2, lines 3-11. However, contrary to the Official Action, *Levesque* does not overcome the stated deficiency of *Lassen*. Specifically, *Levesque* and *Lassen* are completely inopposite, and teach away from each other. Specifically, *Lassen* recognizes the desirability of maintaining a suitably moist interface. See column 14, lines 5-10. In contrast to *Lassen*, *Levesque*, which relates to a diaper, not a sanitary pad, has a completely opposite goal. Specifically, *Levesque* has an object of functioning as a diaper liner so as to prevent soiling of the diaper with solid waste material. And, *Levesque* maintains an object is to avoid maintaining the liner wet. See column 1, lines 28-31. Furthermore, *Levesque* states that it is important to minimize the area of the product that is wet or moistened to reduce skin irritation. See column 7, lines 22-26. Thus, one of ordinary skill in the art practicing the teachings of *Lassen*, which encourages a wet or physiologically hydrous material, would not be motivated to follow or combine the teachings of *Levesque* with *Lassen* since *Levesque* teaches an object to maintain the surface as dry as possible. Accordingly, the teachings of *Levesque* and *Lassen* are inconsistent and teach away from each other. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the combination of *Levesque* and *Lassen*.

In view of the foregoing amendments and remarks, the Examiner is respectfully requested to reconsider and withdraw the outstanding rejections.

In the event that there are any questions concerning this response, or the application in general, the Examiner respectfully urged to telephone the undersigned attorney so that prosecution of the application may be expedited.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

Date: Monday, August 8, 2005

By:



William C. Rowland

Registration No. 30,888

P.O. Box 1404  
Alexandria, Virginia 22313-1404  
(703) 836-6620